



NATIONAL CONSUMERS LEAGUE

1701 K Street, NW, Suite 1200, Washington, DC 20006

3323 FAX (202) 835-0747 www.nclnet.org

July 28, 2005

Division of Dockets Management
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: Docket Nos. 1996P-0418, 1997P-0197, 1998P-0203, and 2000N-0504

The National Consumers League (NCL) appreciates the opportunity to submit additional comments regarding the Food and Drug Administration (FDA) proposed rule to establish on-farm measures to control *Salmonella enteritidis* (SE) in shell eggs during production.

NCL is a private, nonprofit consumer education and advocacy group representing consumers in the marketplace and the workplace. Founded in 1899, we are the nation's oldest consumer organization.

We strongly support the proposed rule, and have previously joined in comments submitted by the Safe Food Coalition that support the proposed rule with modifications.¹ FDA reopened the comment period to request comments on the need for certain additional SE-control practices with respect to pullets. Our organization agrees that on-farm SE prevention practices must address each stage in the life of laying flocks, including the pullet rearing stage. If the practices mandated by FDA's final rule only apply to layers after their placement into layer hen houses, that may be too late. The layers' ovaries may already be contaminated with SE. Therefore, we urge FDA to revise the proposed rule to make clear that all of the SE-prevention practices in the proposed rule apply equally to pullet rearing houses and layer houses. NCL notes that the successful Pennsylvania Egg Quality Assurance Program (PEQAP) includes measures applicable specifically to pullets.

FDA's final rule also should take into account the availability of new technologies that make possible the marking of individual shell eggs with a code that identifies the farm of origin and the production practices used on the farm. These technologies, one of which uses laser etching to place a permanent, tamper-proof mark on eggshells, can and

¹ NCL signed comments dated December 21, 2004 submitted by the Safe Food Coalition, and we reiterate our support for those comments.

should be used to verify compliance with FDA's final rule on SE-prevention practices, while at the same time facilitating traceback in the event of a recall. NCL believes these technologies have an important role to play in FDA's efforts to reduce SE in shell eggs by:

- Identifying the farm where the egg was produced and/or the plant where the egg was packed, thereby greatly facilitating and expediting traceability in the event of a recall or other emergency. While USDA graded eggs currently identify the packing plant on the carton, they are not required to bear the farm of origin. Moreover, eggs can become separated from their carton (e.g., as a result of illegal repacking by industry or removal from the carton by consumers). Marking of each shell egg with farm and packer identity ensures accurate and rapid traceback.²
- Including, in coded form, a host of safety-related information about the egg, including the flock that produced the egg and the production practices used by the producer and packer. For example, the mark can reveal:
 - Whether the flock was vaccinated against SE or other pathogens;
 - Whether a particular SE-control protocol such as the Pennsylvania Egg Quality Assurance Program (PEQAP) was followed on the farm;
 - The type of flock (e.g., caged, cage-free, organic);
 - The feed and feed ingredients fed to the flock; and
 - The wash water temperature used by the packer.

This information can be used to verify that eggs comply with any FDA final regulation on SE-control measures.

- Including an expiration date (*i.e.*, a date after which the egg should not be used). Currently, most shell eggs bear a code date on the carton, but there is no uniformity in the type of date coding used. The code date on the carton may be the date the eggs were packed, a "sell by" date, or a "use by" date. This variety of code dating practices can be confusing to consumers. An expiration or "use by" date etched on each egg can serve as a prominent warning to consumers not to eat eggs that are beyond their shelf life. This can be especially useful to consumers vulnerable to foodborne illness, including senior citizens who otherwise may not detect an egg that is beyond its shelf life and should be thrown away.

Another technology FDA should consider is packaging of shell eggs in transparent, tamper-proof packages. Because this packaging is fully transparent,

² The eggs safety action plan developed by the President's Council on Food Safety lists as one of its goals "Establish product identification and tracking system requirements to facilitate identification of egg sources during outbreaks." Egg Safety From Production to Consumption: An Action Plan to Eliminate *Salmonella Enteritidis* Illnesses Due to Eggs (Dec. 10, 1999), Objective 5.4.

consumers can visually inspect the physical condition of the eggs without opening the package. If the individual eggs are marked with expiration dates and other information related to SE prevention, this information is also visible to the consumer. This technology offers several benefits. It prevents contamination of shell eggs through handling by consumers, and it prevents tampering with shell eggs during transportation and retail sale. It also provides an incentive for egg packers to use the latest packaging machinery, which can bring the rate of cracked eggs down to zero, much lower than the current USDA tolerance level of 5 to 7 percent cracked eggs. One brand, Born Free®, is currently offering shell eggs that use both of these technologies, laser etching and transparent, tamper-proof packaging.

FDA should consider requiring permanent, tamperproof marking of all shell eggs as a means of verifying compliance with mandatory on-farm SE-prevention practices. This technology when broadly implemented will allow effective correlation between source information etched on each egg and the details of production and processing, such as practices regarding the production of pullets, which have caused FDA to seek additional comments on the present proposal. FDA should also consider requiring or encouraging use of tamper-proof packaging for shell eggs.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda F. Golodner", written in a cursive style.

LINDA F. GOLODNER
President